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Oracle International Corp.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC.; a Colorado corporation;
ORACLE AMERICA, INC.; a Delaware
corporation; and ORACLE INTERNATIONAL
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;
and SETH RAVIN, an individual,

Defendants.

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Case No. 2:10-cv-0106-LRH-VCF

**ORACLE'S MOTION FOR ORDER
SHORTENING TIME RE: ORACLE'S
MOTION TO COMPEL AND
MEMORANDUM OF POINTS AND
AUTHORITIES RE POST-
INJUNCTION REQUESTS FOR
PRODUCTION**

1 Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation
2 (collectively “Oracle”) respectfully move the Court for an order shortening the time for briefing
3 Oracle’s Motion to Compel and Memorandum of Points and Authorities re Post-Injunction
4 Requests for Production (“Motion to Compel”) filed on August 19, 2019. Because the Motion
5 concerns an abbreviated discovery schedule, including expert disclosures in less than three weeks,
6 Oracle requests that a response to its Motion to Compel be filed on or before August 26, 2019
7 (seven days after filing Oracle’s motion, as opposed to the ordinary fourteen days), with Oracle’s
8 reply due on or before August 29, 2019 (three days after the filing of any response, as opposed to
9 the ordinary seven days). Defendant Rimini Street, Inc. (“Rimini”) has been notified of and has
10 agreed to Oracle’s proposed expedited briefing schedule. This Motion is based upon the
11 Declaration of David R. Kocan, the Memorandum of Points and Authorities that follow, the entire
12 record in this action, and such other matters and arguments as may be presented to the Court.

13 DATED: August 19, 2019

MORGAN, LEWIS & BOCKIUS LLP

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15 By: /s/ John A. Polito
16 John A. Polito

17 Attorneys for Plaintiffs Oracle USA, Inc., Oracle
18 America, Inc. and Oracle International Corp.
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DECLARATION OF DAVID R. KOCAN

I, David R. Kocan, declare as follows:

1. I am an attorney at Morgan, Lewis & Bockius, LLP, counsel of record in this action for Plaintiffs Oracle USA, Inc., Oracle America, Inc. and Oracle International Corp. (collectively, “Oracle”). I have personal knowledge of the facts set forth in this declaration and would competently testify to them if called upon to do so.

2. On August 19, 2019, Oracle filed its Motion to Compel in this action. Oracle’s Motion to Compel seeks an order compelling Defendant Rimini Street, Inc. (“Rimini”) to produce documents in response to Oracle’s Supplemental Requests for Production of Documents 1–5 and 8–11 (“Supplemental RFPs”).

3. Under the Federal and Local Rules, Rimini’s response to Oracle’s Motion to Compel would be due September 2, 2019. Any reply from Oracle would be due September 9, 2019. Oracle’s initial expert disclosures are due September 5, 2019, and discovery closes October 8, 2019.

4. Further delays by Rimini in producing the custodial documents that are the subject of Oracle’s Motion to Compel would severely prejudice Oracle, including with respect to its disclosure of expert witnesses.

5. Oracle has moved as expediently as possible in filing the Motion to Compel—a process that was prolonged due to extensive meet and confer efforts, during which Oracle repeatedly attempted to persuade Rimini to provide the discovery at issue. The Parties exchanged correspondence regarding the issues raised in Oracle’s Motion to Compel on July 3, July 9, July 12, July 17, July 18, July 23, July 26, July 29, July 30, August 2, August 5, August 11, August 13, and August 16, 2019. The Parties conducted telephonic meet-and-confers on July 3, July 19, July 24, and August 1, 2019 concerning these issues. Oracle provides additional information regarding the Parties’ meet and confer efforts in Oracle’s Motion to Compel.

6. Rimini has not yet produced any custodial documents, instead taking the position that Oracle must agree to a significantly underinclusive set of custodians and search terms before

1 Rimini will produce any custodial documents. Rimini also refuses to agree to any schedule for
2 custodial production, insisting that it has no obligation to produce any custodial production before
3 the close of discovery.

4 7. On August 11, 2019, Oracle notified Rimini that it would move forward with a
5 motion to compel unless Rimini agreed, by the close of business on August 13, to: (1) search for
6 documents from the requested custodians hitting on Oracle's proposed search terms, (2) produce
7 responsive custodial documents on a rolling basis beginning immediately, and (3) agree to a
8 reasonable time frame for production. On August 13, 2019, Rimini refused to agree to Oracle's
9 request for the production of relevant custodial materials, instead continuing its delay tactics.

10 8. Also on August 11, 2019, Oracle proposed the shortened briefing schedule that
11 this Motion requests, whereby Rimini's opposition would be due one week after Oracle filed its
12 Motion to Compel and Oracle's reply would be due three days thereafter. On August 13, 2019,
13 Rimini requested that Oracle's proposed briefing schedule include specific filing and briefing
14 dates.

15 9. On August 15, 2019, Oracle notified Rimini that it would file its Motion to
16 Compel on August 16, 2019 or August 19, 2019, and again proposed this Motion's expedited
17 briefing schedule such that Rimini's opposition would be due one week after Oracle filed the
18 Motion to Compel (either August 23 or August 26), and Oracle's reply would be due three days
19 later. On August 16, 2019, Rimini agreed to Oracle's proposed expedited briefing schedule.

20 10. I do not believe that Rimini would be prejudiced by a resolution of Oracle's
21 Motion to Compel on an expedited basis because Rimini is well aware of the relevant facts—this
22 case began over a decade ago and concerns Rimini's core business model—and because Rimini
23 has long been aware of Oracle's positions as articulated in the Motion to Compel, which were
24 repeatedly expressed by Oracle during the course of the Parties' meet and confer efforts.
25 Moreover, Rimini itself has consented to Oracle's expedited briefing schedule.

26 11. Were this Court to grant this Motion for an order shortening time, Oracle proposes
27 that Rimini is provided seven days, *i.e.*, a deadline of Monday, August 26, 2019, to respond to
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1 Oracle's Motion to Compel, as opposed to the usual 14-day period for response. Oracle also
2 proposes a reply deadline of Thursday, August 29, 2019 (three days rather than the ordinary
3 seven). These shortened deadlines would allow the Motion to Compel to be resolved in time for
4 Oracle to receive discovery needed to prepare its initial expert disclosures without prejudice.

5 12. This Motion for an order shortening time is not made for any improper purpose
6 and is brought to allow this Court an opportunity to rule on the issues presented in Oracle's
7 Motion to Compel in a timely fashion allowing complete relief should it so order.

8 13. I declare under penalty of perjury under the laws of the United States that the
9 foregoing is true and correct and that this declaration is executed at San Francisco, California, on
10 August 19, 2019.

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13 /s/ David R. Kocan
14 David R. Kocan
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Local Rule IA 6-1(d) provides that a motion to shorten time will be granted upon an
3 attorney's declaration describing the circumstances that constitute good cause to justify
4 shortening of time. *See also* Fed. R. Civ. P. 6(b)(1) (giving courts power to change a briefing
5 date when a party demonstrates "good cause").

6 As Oracle's Motion to Compel details, Defendant Rimini Street, Inc. ("Rimini") continues
7 to thwart Oracle's ability to obtain discovery that is relevant and necessary to the injunction-
8 enforcement issues presently before the Court on an expedited schedule. Oracle attempted to
9 resolve the issues raised in the Motion to Compel without court intervention, as is required in this
10 District. *See, e.g., ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171 (D. Nev.
11 1996). Since the inception of the injunction discovery period, Oracle has diligently sought to
12 reach agreement with Rimini regarding custodial document production. Oracle has proposed
13 multiple concessions in an effort to reach compromise with Rimini on this discovery, despite
14 being entitled to such discovery. Rimini has obstructed at every turn.

15 Local Rule 7-2(b) provides that responses to a motion shall be filed and served within
16 fourteen days after service of the motion, and reply points and authorities shall be filed within
17 seven days after service of the response. The Post-Injunction Scheduling Order sets a deadline of
18 September 5, 2019 for expert-witness disclosure. Under the ordinary schedule for motions
19 briefing, Oracle's Motion to Compel would not be fully briefed until September 6, 2019, meaning
20 that any decision on the Motion would take place *after* the expert disclosure deadline. Without
21 the discovery that is the subject of the Motion to Compel, Oracle will be severely prejudiced as it
22 relates to its disclosure of expert witnesses. Thus, particularly given the upcoming expert
23 disclosure deadline and Rimini's agreement to Oracle's proposed expedited briefing schedule,
24 Oracle respectfully submits that it is appropriate and necessary for the Court to hear Oracle's
25 Motion to Compel on a shortened briefing schedule.

26 For the foregoing reasons, including the specific facts alleged in the declaration
27 accompanying this Motion, Oracle respectfully requests this Court grant its request for an order
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1 shortening time as follows:

- 2 1. Any response to Oracle's Motion to Compel shall be filed and served no later than
3 August 26, 2019, seven days after the filing of the Motion; and
4 2. Oracle's reply in support of its Motion shall be filed and served no later than August
5 29, 2019, three days after the filing of Rimini's response.

6 DATED: August 19, 2019

MORGAN, LEWIS & BOCKIUS LLP

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8 By: /s/ John A. Polito
9 John A. Polito

10 Attorneys for Plaintiffs Oracle USA, Inc., Oracle
11 America, Inc. and Oracle International Corp.

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14 **IT IS SO ORDERED:**

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16 HON. CAM FERENBACH
17 UNITED STATES MAGISTRATE JUDGE

18 DATED: 8-20-2019

1 **CERTIFICATE OF SERVICE**

2 I certify that on August 19, 2019, I electronically transmitted the foregoing **ORACLE'S**
3 **MOTION FOR ORDER SHORTENING TIME RE: MOTION TO COMPEL AND**
4 **MEMORANDUM OF POINTS AND AUTHORITIES** to the Clerk's Office using the
5 CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this
6 matter; all counsel are CM/ECF registrants.

7
8 DATED: August 19, 2019

MORGAN, LEWIS & BOCKIUS LLP

9
10 By: /s/ John A. Polito
11 John A. Polito

12 Attorneys for Plaintiffs Oracle USA, Inc., Oracle
13 America, Inc. and Oracle International Corp.
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